

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

Medtox Laboratories, Inc.,

Plaintiff,

v.

Civil No. 08-1308 ADM/JJG

Gateway Medical Research, Inc.,

Defendant.

Darren B. Schwiebert, Esq., James R. Mayer, Esq., and Ted C. Koshiol, Esq., Fredrikson & Byron, PA, Minneapolis, MN, on behalf of Plaintiff.

Kevin M. Decker, Esq., and Maren F. Grier, Esq., Briggs & Morgan, PA, Minneapolis, MN, on behalf of Defendant.

ORDER DENYING MOTION TO REVIEW TAXATION OF COSTS

The above matter came before the undersigned upon Plaintiff Medtox Laboratories, Inc.’s (“Medtox”) Motion to Review Taxation of Costs [Docket No. 117]. Medtox argues the Cost Judgment [Docket No. 112] entered by the Clerk of Court should be amended to include costs for deposition transcripts used by Medtox.

The Taxation of Costs Summary [Docket No. 112-1] states that fees for transcripts were denied because Medtox did not provide sufficient documentation to verify the claimed transcript costs. Medtox argues its Bill of Costs Itemization outlines the specific cost of each deposition transcript and serves as sufficient documentation. However, the Bill of Costs form expressly requires an applicant to attach “an itemization and documentation for requested costs in all categories.” Medtox attaches the supporting documentation to its current Motion, but provides no explanation for its failure to initially comply with this requirement. Under these circumstances, the Court upholds the Clerk’s Cost Judgment. See Border State Bank, N.A. v.

AgCountry Farm Credit Servs, FLCA, No. 06-2611 JNE/RLE, 2009 WL 279486, *1 (D. Minn. Feb. 4, 2009) (declining to consider belated documentation of costs); Marmo v. Tyson Fresh Meats, Inc., 457 F.3d 748, 763 n.7 (8th Cir. 2006) (finding the district court acted within its discretion in striking an untimely supplementation to a bill of costs).

Based on the files and records herein, and for the reasons stated above, IT IS HEREBY ORDERED that Medtox's Motion to Review Taxation of Costs [Docket No. 117] is DENIED.

BY THE COURT:

s/Ann D. Montgomery
ANN D. MONTGOMERY
U.S. DISTRICT JUDGE

Dated: November 2, 2010.